

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

IN RE: DICAMBA HERBICIDES	)	MDL No. 2820
LITIGATION)	
)	
<u><i>This document relates to:</i></u>)	
Barham, et al.	)	Case No. 1:18cv124
Billings	)	Case No. 1:18cv125
Coker	)	Case No. 1:18cv126
Ellis, et al.	)	Case No. 1:18cv127
Jossart	)	Case No. 1:18cv128
Peyton, et al.	)	Case No. 1:18cv129
Rhodes	)	Case No. 1:18cv130
Tillman, et al.	)	Case No. 1:18cv131
Vanalstine	)	Case No. 1:18cv132

MEMORANDUM and ORDER

This matter is before the Court on defendants BASF and Monsanto’s combined motion to strike amended complaints filed in the above-captioned cases. (#256.) The plaintiffs filed Master Complaints in this case on August 1, 2018. According to the Case Management Order (“CMO”) entered on July 23, 2018, any current plaintiff in the MDL that was not named in a Master Complaint could (1) conform its pleading to a Master Complaint by filing a Notice to Conform, (2) dismiss its complaint without prejudice, or (3) do nothing and have its case stayed.

Defendants Monsanto and BASF contend that the above-captioned plaintiffs filed amended complaints on September 26, 2018 in contravention of this Court’s CMO. The amended complaints add six new causes of action but deleted E.I. du Pont de Nemours and Company (and Pioneer Hi-Bred International), collectively “DuPont,” as a defendant, and a few complaints add a plaintiff, which appears to be an effort to more specifically identify existing plaintiffs.

Plaintiffs respond that they understood their cases were not stayed until the deadline to file a Notice to Conform had passed and that they were entitled to amend their complaints as a matter of right pursuant to Federal Rule of Civil Procedure 15. Further, plaintiffs note that they were required to and did supply the defendants with discovery in the form of Plaintiff Fact Sheets, suggesting to them that a stay was not yet in effect.


As noted, DuPont is no longer named as a defendant in the amended complaints, and DuPont therefore opposes the Monsanto and BASF defendants' motion to strike.

The Court declines to strike the amended complaints of the above-captioned plaintiffs. The amending plaintiffs added a cause of action under the Tennessee Consumer Protection Act ("TCPA") that could not be pleaded on a class-wide basis. The other amendments simply conform the complaints to the matters pleaded by the Tennessee plaintiffs in the Crop Damage Master Complaint. This Court's rulings regarding the Tennessee portions of the Master Complaint will effectively govern these cases with the exception of the TCPA claims. Moreover, as plaintiffs explained, the additional parties were added to be consistent with the plaintiffs' Fact Sheets --- they do not actually add new or unrelated entities. The Court agrees with plaintiffs that defendants are not burdened or surprised by the amendments.

Accordingly,

IT IS HEREBY ORDERED that defendants BASF's and Monsanto's motion to strike amended complaints (#256) is DENIED.

Dated this 3rd day of December, 2018.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE